

CHARLOTTE COUNTY PLANNING AND ZONING BOARD

REGULAR MEETING

Administration Center, 18500 Murdock Circle, Room 119, Port Charlotte, Florida

Board Members

Michael Gravesen, Chair
Paul Bigness, Vice-Chair
Stephen Vieira, Secretary
Don McCormick
Kenneth Chandler



District

District V
District III
District I
District II
District IV

MINUTES

REGULAR MEETING

May 11, 2020 at 1:30 P.M.

Call to Order

Chair Gravesen called the meeting to order at 1:30 p.m.

Roll Call

Upon the roll being called it was determined a quorum was present.

Approval of Minutes – April 13, 2020 Regular Meeting

The April 13, 2020 minutes were approved as circulated.

Announcements

Shaun Cullinan, Planning and Zoning Official, said there are no email questions in the email in-box for public use for this meeting.

The oath was provided by Secretary Clim for those wishing to provided testimony.

PETITIONS

PP-20-03-10

Quasi-judicial

Commission District II

Lennar Homes, LLC has requested Preliminary Plat approval for a subdivision to be named, Heritage Landing Phase II, (formerly known as Tern Bay) consisting of 256 residential lots. The site is 386.35 acres, more or less, and is located east of the Peace River, north and west of Burnt Store Road, and south of the City of Punta Gorda, in Sections 17, 19 and 20, Township 42, Range 23, in Commission District II.

Shaun Cullinan, Planning and Zoning Official, provided the findings and analysis for Petition PP-20-03-10 with a recommendation of approval, with 5 conditions.

All pertinent departments have reviewed the petition resulting in a total of five conditions. All affected utilities have been notified. None have offered any objections. Community Development recommends approval of Petition PP-20-03-10.

Questions for Staff

None

Applicant's Presentation

Robert Berntsson, Esq. Big W Law Firm stated he is the agent for the applicant. **Mr. Berntsson** was sworn in. He said they repaired the golf course and they are now open again. We accept the staff report and the 5 conditions.

Mr. Vieira asked can you give us a recap of what they are doing with the golf course?

Mr. Berntsson replied the golf course is open or set to be open. They originally had 27 holes and now they have gone to 18 holes. They refurbished what was in place and are moving forward. The new petition fits in, the golf course is within the new portion.

Public Input

No one spoke for or against this request.

- **Mr. Bigness** moved to close the public hearing, second by **Mr. Chandler**; with a unanimous vote.

Recommendation

Mr. McCormick moved that PP-20-03-10 be sent to the Board of County Commissioners with a recommendation of Approval based on the findings and analysis in the staff report dated April 21, 2020, including the 5 conditions, along with the evidence presented at today's meeting, second by **Mr. Vieira** and carried by a unanimous vote.

Mr. Gravesen asked Mr. Cullinan to explain the differences in the numbering of the petitions.

Mr. Cullinan said the older system gave out numbers that you have seen in the past. When we went to a new system, we needed staff to go into the system and change the numeric number to the codes/numbers we used before. This can cause human error, so we have decided to use the new numbers that we get from the newer system. The PAL stands for Plan Amendment Large scale. PAS stands for Plan Amendment small scale. The NOPC stands for Notice of Proposed Change, and we have used this all along, TCP stands for Text Comprehensive Plan, the Z stands for Rezoning. The numbering scheme now shows 20 for 2020 and the 00003 stands for the 3rd petition this year. Before we showed the middle number was the month it came in and then the last number was what petition number for the year. These numbers are more consistent.

Mr. Cullinan said Jie Shao will present these items.

The following Land Use Petition and Rezoning Petition are together

PAL-20-00003

Legislative

Commission District III

Pursuant to Section 163.3184(3), Florida Statutes, transmit a Large Scale Plan Amendment to the Department of Economic Opportunity (DEO) and other State agencies for review and comment; the amendment request is to add an annotation to Charlotte County FLUM Series Map #1: 2030 Future Land Use to limit the overall density of the subject property to five units; for property located at 6530, 6600, 6640, and 6650 San Casa Drive, in the Englewood area, containing 19.9± acres; Commission District III; Petition No. PAL-20-00003; applicants: Casa Sand, LLC, Lake Hurst Holdings, LLC, and San Casa Investments, LLC; providing an effective date.

Z-20-46-17

Quasi-judicial

Commission District III

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Planned Development (PD) to Residential Estate 1 (RE-1), increasing density from one unit to five units (the existing PD allows for up to 41 single-family homes); for property located at 6530, 6600, 6640, and 6650 San Casa Drive, in the Englewood area; containing 19.9± acres; Commission District III; Petition No. Z-20-46-17; applicants: Casa Sand, LLC, Lake Hurst Holdings, LLC, and San Casa Investments, LLC; providing an effective date.

Jie Shao, Principal Planner, was sworn in. **Ms. Shao** asked to be accepted as an expert in Planning; with her qualifications attached to the staff report. **Ms. Shao** discussed the large-scale plan amendment to add a notation to Charlotte County FLUM series map #1, 2030 Future Land Use to limit the overall density of the subject property for only 5 units, and a Rezoning from Planned Development to Residential Estate 1. The stated purpose of the

petition is to have only 5 units to be developed on the subject property, which is approximately 19.9 acres. Adjacent property owners within 1000 feet of the site have been notified. She explained the location of the site and discussed the past rezoning which allowed 41 units. **Ms. Shao** said Community Development recommends approval of Petition PAL-20-00003 as outlined in the staff report. This Petition will be forwarded to the Department of Economic Opportunity for comments.

Questions for Staff

Mr. Vieira asked, lot 5 will be subdivided so the two existing homes sit on its own separate parcel, will that create a new parcel?

Ms. Shao said the applicant wants to split lot 5 into 2 lots, so there will be 9 acres. They would have to remove the existing structure so they can build.

Applicant's Presentation

Robert Berntsson, Esq., BIG W Law Firm, agent for the applicant, was sworn in. **Mr. Berntsson** said you may recall less than a year ago we were here before you to seek a change on this site. To the north is Industrial General and we were seeking to continue that to the north part and have residential on the south portion of the property. We met a lot of opposition from the surrounding neighborhood. The BCC denied that petition. The site has a wetlands portion on the north part and it doesn't make sense to build bridges and cross the waterway, so it is not feasible to do the PD plan. This plan is 5 units on large parcels. It looks like there are 2 houses on lot number 5, but there is one house and a barn and the second house is on lot 6, you just can't see it because of the overgrowth that is there. The lot on house 6 will remain, one on lot 5 that can remain. Lot 5 will be split so a second house can be built on lot 5 and the same with lot 4 to be split in 2 parcels. There will be 5 dwelling units on 20 acres. I know there are a bunch of neighbors here. I did receive a call from an attorney representing the association. There is some concern there might be affordable housing here, but his client intends to sell this as market rate property. He is not familiar with 4 acre affordable housing sites. We are amending the comprehensive plan so there is an annotation on the plan that says you can only have 5 units on these 19 acres.

Public Input

Robert Waldren, who lives in the area, was sworn in. **Mr. Waldren** said when he received his notification letter he asked "why". Why are they going from a PD to RE-1? Why is it going from 41 units to 5? He said the applicants hired the best high-class lawyers to represent them, why? He thought the applicants could ask for a variance to use the land the way they want. Why change zoning for 5 units? He read articles about HUD and affordable housing and wonders if this might become affordable housing. He said one of the applicants has over 40 LLC's and initiated these 3 companies filing these petitions. They all have the same address. Their website states extensive experience in affordable housing. He discussed some of the businesses he read about on line naming presidents of the companies and who they are related to and deal with.

Donna Ping, who lives in the area, was sworn in. **Ms. Ping** said we have heard multiple things about what might happen to this site. We google and try to figure out who, what, why and where. Why do we need another rezoning in the same area that we talked about in 2018 and 2019. Now 2020. They do not understand why another rezoning is needed. They feel it is being set up for affordable or HUD housing complex. We are good with 5 homes but we are not good with changing all this for affordable housing or HUD housing.

John Bartol, who lives in the area, was sworn in. **Mr. Bartol** said he is concerned about subtle inconsistencies within some of the documentations submitted with this application. In the staff report, the last sentence in Part III, states "now the applicants/property owners are applying for this large scale plan amendment and RE-1 rezoning in order to construct 5 single family homes on the subject properties". Paragraph one in the narrative for rezoning states "the current PD zoning allows for 41 single family homes on the parcel, the proposed zoning would allow 5 dwelling units on this property". Change in term from single family to dwelling units. Finally, in the application for large scale plan amendment, Section 8 the applicants proposed changes states "the property is

limited to 5 units of density” and Section 9 the reason for proposed changes, “a limitation of 5 units on the property”. I may be splitting hairs, but I feel there should be clarity and consistency on what single family homes, dwelling units, units of density and units represent. He feels the application should be rejected.

Mike Rezac, who lives in the area, was sworn in. Mr. Rezac said he is a former realtor, with 25 years as a broker and investor. He lives in Oyster Creek and is a former President of the homeowner’s association and is currently on the board. In 2006, this was zoned from Agriculture to PD. That allowed for the 41 residents. We were happy with that. Last year they tried to change it to light industrial, but that was denied. We would not have a problem if this is for just 5 homes. They are concerned if it is the beginning of low-income housing or affordable housing or apartments.

Peter L. Borowski, who lives in the area, was sworn in. Mr. Borowski said he is the President of the Casa De Meadows homeowner’s association. There are 23 homes. To access or exit our community there is only one entrance and/or exit on San Casa Dr. Additional traffic will only make their current access issues worse. We are concerned about increasing the number 41 to possibly 205 units. Years ago, the County set this land use at 45 for good cause. They are concerned this will increase other costs of services that are already stressed, like water, sewer, trash and electrical. Overuse will likely increase costs in the form of fees to us the residents. Please do not increase this density of land.

Don Hudson, was sworn in. Mr. Hudson said he was unprepared. He was not planning on talking but turnout is small. He is a Florida resident for 40 years. He doesn’t want his neighborhood messed with. There is lots of land in Gulf Cove and you can group them all together and put these homes there. He is against this request.

Jim Surprenant was sworn in. Mr. Surprenant said within the boundaries of this property lies the environmentally sensitive headwaters of Oyster Creek. Our homes are single family homes ranging from \$300,000 up to \$700,000. We would hope that this Board would not let anything happen to the values of our homes and life savings. We are ok with the existing 41 single family homes. We know the applicants can change their plans in the future. He mentioned the traffic problems on San Casa.

Marlene Fogelberg, who lives in the area, was sworn in. Ms. Fogelberg said their concern is somehow, someday, this will not remain the 5 lots they are saying today. They want to make sure there will not be more than 5 single family homes. There was a jungle on the east side of Oyster Creek, but now that is Winchester Blvd., which is good because it is a hurricane evacuation road. She just wants to make sure this plan does not change from what is presented today.

Betsy Cheesman, who lives in the area, was sworn in. Ms. Cheesman said she lives very close to this site. Right now, she sees trees out her window, but when this is cleared, that will be gone. They do not understand why if you can build 41 houses, why would you change it to only put in 5 homes.

- **Mr. Bigness** moved to close the public hearing, second by **Mr. Chandler**; with a unanimous vote.

Rebuttal

Mr. Berntsson said his client is watching and texting him and he has no intention of putting in any affordable housing on this site. He intends to sell 5 lots to build 5 single family homes. **Mr. Berntsson** explained the PD approval was a specific plan that shows where the roads would be and where the lots would be. They would be rezoning from PD to PD, but it is easier to rezone to Residential Estates 1 (RE-1). He feels everyone spoke favorably about this because they were okay with 5 houses. They will not do apartment units. A single-family residence is a dwelling unit. The fact that my narrative did not use the same word over again, was just writing in different words but meaning the same thing. There are no smoking mirrors here, this is a simple request for 5 lots, 5 units, 5 dwelling homes.

Assistant County Attorney David asked how many units of development are on the property today?

Mr. Berntsson said 3. The base density is 3, but the zoning allows for 41.

Asst. Co. Attorney David said so as of today, you can only build 3 units on that property, correct?

Mr. Berntsson replied correct.

Asst. Co. Attorney David said so after the rezoning, you will transfer 2 units, so what is the total number of homes you can build on this property?

Mr. Berntsson said 5.

Asst. Co. Attorney David asked are there any plans for roads or how to access parcel 6?

Mr. Berntsson said there is already an easement to parcel 6. We intend to split lots 4 and 5 into two lots each, 6 is already. We're done. We presume each lot will have its own driveway.

Asst. Co. Attorney David asked are you aware of HUD coming in to something zoned RE-1 and over ride County rules?

Ms. Shao said I don't know that but the issue is the land use change to the Comprehensive Plan limits to 5 units on the entire site. If anything changes to increase that, there has to be a public hearing. Even HUD could only use 5 units.

Asst. Co. Attorney David said the number of units is controlled by local zoning. The unit meaning "dwelling unit, home, single family detached residence" all those terms are referencing the same thing. I am saying this for the folks listening outside. We also have the transfer of development unit process (TDU process) this parcel today, even if you rezone it, you can only build 3 units on it. A unit cannot be an apartment complex. A unit could be a 6-person home, you can have a group home but this is not what they are asking for.

Mr. Vieira asked would the group home function also trigger a review of the comprehensive plan?

Asst. Co. Attorney David said 6 or less is allowed but over 6 would require a special exception.

Mr. Berntsson said as he is standing here today, they have no intentions of putting group homes on this property.

There was some discussion about changing a PD, what a variance or special exception can allow, and that the traffic study was done for the 41 houses in the PD, and this is less with only 5 lots.

Recommendation

Mr. Bigness moved that PAL-20-00003 be sent to the Board of County Commissioners with a recommendation of Approval based on the findings and analysis in the staff report dated April 17, 2020, and to forward to the Department of Economic Opportunity, along with the evidence and testimony presented at today's meeting, second by **Mr. Vieira**; and carried by a unanimous vote.

Mr. Bigness moved that Z-20-46-17 be sent to the Board of County Commissioners with a recommendation of Approval based on the findings and analysis in the staff report dated April 17, 2020, along with the evidence and testimony presented at today's meeting, second by **Mr. Vieira**; and carried by a unanimous vote.

NOPC-20-49-18

Quasi-judicial

Commission District IV and V

A Resolution pursuant to Section 380.06(7), Florida Statutes (F.S.) and Section 3-9-10.1, Development of Regional Impact (DRI) Development Order (DO) Amendment Process and Procedure under Chapter 3-9, Zoning, the County's Land Development Regulation, amending Development Order, Resolution Number 2009-167, for Increment IV of the Murdock Center Development of Regional Impact (DRI) to revise Exhibit C: Murdock Center Increment IV Land Uses Table 10-1A-1 Project Description by adding an Land Use Equivalency Matrix; to use the proposed Land Use Equivalency Matrix 1) to exchange 9,581 square feet of approved retail uses for 50 hotel rooms; 2) to exchange 10,237 square feet of approved retail uses for 150 dwelling units of senior adult housing; and 3) to exchange 9,515 square feet of approved retail uses for 125 beds of assisted living, on Parcel 2 within Increment IV of the Murdock Center DRI; to amend Land Uses Table 10-1A-1 Project Description to reflect changes of development rights; and to reflect the extension of the buildout date and expiration date of this Development Order per Governor's Executive Orders; for property generally northeast of Tamiami Trail (U.S.41), southeast of Veterans Boulevard, and west of Cochran Boulevard, containing 98.36± acres, in the Port Charlotte area; Commission District IV, Petition No. NOPC-20-49-18; applicant: Cherrywood Pointe Investment, LLC; providing an effective date.

Jie Shao, Principal Planner, provided the findings and analysis for Petition **NOPC-20-49-18**.

All pertinent departments have reviewed resulting in a total of zero conditions. Community Development recommends approval of Petition **NOPC-20-49-18**.

Questions for Staff

None

Applicant's Presentation

Robert Berntsson, BIG W Law Firm, agent for the applicant, said he was sworn in. Mr. Berntsson said they agree with the staff report. There is no current plan to go forward with the Senior living because the contract is no longer valid. This adds flexibility. This is the last parcel to be developed other than a few outparcels on Cochran Blvd. The bank acquired the property through a former bank they merged with, who acquired it during a foreclosure.

Public Input

No one spoke for or against this request.

- **Mr. Vieira** moved to close the public hearing, second by **Mr. Bigness**; with a unanimous vote.

Asst. Co. Attorney David said the applicant and the property owner both executed the sections of the application that stated that they would go ahead and proceed with this application, correct?

Mr. Berntsson said the bank signed authorization as the owner to the applicant. The applicant signed as me to be the agent. The bank's letter now says they will be the applicant and I will be their agent.

Recommendation

Mr. Vieira moved that **NOPC-20-49-18** be sent to the Board of County Commissioners with a recommendation of Approval based on the findings and analysis in the staff report dated April 22, 2020, along with the evidence and testimony presented at today's meeting, second by **Mr. Bigness**; and carried by a unanimous vote.

Asst. Co. Attorney David said the next item had an error on the Applicant's name. The Applicant is Cherrywood Pointe Investment, LLC but there were 2 other names listed: Lake Hurst Holdings, LLC, and San Casa Investments, LLC. Those 2 names are not affiliated with this petition. It was a typo/error.

Jie Shao said the advertisement in the newspaper was correct. Only the agenda had the error.

TCP-20-01

Legislative

Commission District IV and V

Pursuant to Section 163.3184(3), Florida Statutes, transmit a Large Scale Plan Amendment to the Department of Economic Opportunity (DEO) and other State agencies for review and comment; this request is to revise Future Land Use (FLU) Appendix VI: Developments of Regional Impact by adding a Land Use Equivalency Matrix to Increment IV of the Murdock Center Development of Regional Impact (DRI) which will allow the conversion of approved commercial square footage to other uses within the DRI; and by amending the Murdock Center DRI development rights to 1) reduce the range of square footage for Retail/office from 2,714,000 – 2,729,924 square feet to 2,669,667 – 2,685,591 square feet; 2) increase the hotel rooms from 100 to 150 within Increment IV; 3) add 150 units of Senior Adult Housing within Increment IV; and 4) add 125 beds of Assisted Living within Increment IV; Petition No. TCP-20-01: Applicant: Cherrywood Pointe Investment, LLC; providing an effective date.

Jie Shao, Principal Planner, said she was sworn in and provided her qualifications as an expert planner. **Ms. Shao** provided the findings and analysis for Petition **TCP-20-01** with a recommendation of approval, based on the reasons stated in the staff report.

Community Development recommends approval of Petition **TCP-20-01** as outlined in the staff report dated April 20, 2020.

Questions for Staff

None

Applicant's Presentation

Robert Berntsson, Esq., agent for the applicant, said he was sworn in. **Mr. Berntsson** stated he accepted **Ms. Shao** as an expert. **Mr. Berntsson** said they join in with the staff report and will answer any questions.

Public Input

No one spoke for or against this request.

- **Mr. McCormick** moved to close the public hearing, second by **Mr. Bigness**; with a unanimous vote.

Recommendation

Mr. Chandler moved that **TCP-20-01** be sent to the Board of County Commissioners with a recommendation of Approval to transmit to the Department of Economic Opportunity, as outlined in the staff report dated April 20, 2020, based on the findings and analysis in the staff report and the evidence presented at today's meeting, second by **Mr. Vieira** and carried by a unanimous vote.

Z-18-10-40

Quasi-judicial

Commission District II

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Industrial General (IG) to Planned Development (PD); for property located at 3539, 3589, 3609 and 3649 Acline Road, in the Punta Gorda area, containing 13.38± acres; Commission District II; Petition No. Z-18-10-40; applicant: TNT Southern Holdings LLC; providing an effective date.

Jie Shao, Principal Planner, provided the findings and analysis for Petition **Z-18-10-40**.

All pertinent departments have reviewed resulting in a total of 15 conditions (A thru O). Community Development recommends approval of Petition **Z-18-10-40**.

Questions for Staff

Mr. McCormick asked, you are not developing the northern portion of the site at this time, correct?

Ms. Shao said that is correct. It is divided into 2 phases.

Mr. Chandler asked if they showed how they are doing to keep the dust down, irrigation?

Asst. Co. Attorney David said Condition E requires a dust abatement plan. They are also required to maintain a stormwater pollution prevention plan, and air pollution prevention plan and to identify all sources and control missions using the best available control technology, so that is a component of the approval.

Applicant's Presentation

Robert Berntsson, BIG W Law Firm, agent for the applicant, said he was sworn in. **Mr. Berntsson** said they do accept Ms. Shao as an expert. We have worked with staff and you will notice the number in the petition is from 2018. We have been working over 2 years on this project to make sure everyone is comfortable with what they are doing. They are in the concrete batch plant business. He has other plants throughout the Country. The property is zoned for industrial general. All the things in Phase 2 we can do on the entire site as a right today. Although this is the first Phase of the plan, which is the concrete batch plant and because of the concern of noise and dust, it is an enclosed plant. This was a change that was made and took the architect a while to do. There is a wetland condition that was worked out, a unified wetland condition that is placed on all PD's when they come through. They join in with the staff report.

Public Input

Mr. Bigness said dust mitigation is a big thing when winds get blowing. Typically, batch plants use water tanks to control that. Just concerned about this. Do you know about wash out for these trucks?

Mr. Berntsson said the applicant is in the hallway, I don't know about that.

Gary Bayne, P.E., SW Engineering Design, was sworn in. **Mr. Bayne** said we have not gone through the design process yet, we will go through the DEP division making sure the irrigation, washouts, all that stuff is in place. Their inspectors are very particular how those things get set up. Concrete batch plants get inspected monthly.

There was some discussion about the size of the plant, the concrete batch plants down the road and the entrance.

- **Mr. McCormick** moved to close the public hearing, second by **Mr. Vieira**; with a unanimous vote.

Recommendation

Mr. McCormick moved that **Z-18-10-40** be sent to the Board of County Commissioners with a recommendation of Approval based on the findings and analysis in the staff report dated April 22, 2020, including conditions A through O, along with the evidence and testimony presented at today's meeting, second by **Mr. Vieira**; and carried by a unanimous vote.

ADJOURNMENT

The meeting was adjourned at 3:30 p.m.

Accepted on behalf of the Charlotte County
Planning and Zoning Board



Michael Gravesen, Chair